

**EFFECTIVE**

November 1, 2009.

**SUBJECTS**

1. Definitions.
2. Clarifications.

**DEFINITIONS****Court Order**

Confidential information must be released when a judge issues a written court order to release the information. **Court** does not include an administrative proceeding and **judge** does not include an administrative law judge. A subpoena must accompany a court order to require a release of substance abuse records.

**Identifying  
Information**

Information which can be used to distinguish an individual's identity, either directly or indirectly such as:

- First or last name.
- Social Security or other identification number.
- Biometric records.
- Date and place of birth.
- Mother's maiden name.
- One or more factors specific to physical, physiological, mental, economic, cultural or social identity, etc.
- Bits of information that can be combined with other bits of personal or identifying information to build a more complete profile so that when enough information is combined it can be used to identify a specific individual.

***Exception:*** For the purposes of adoption, see SRM 131 regarding Release of Identifying Information to Adult Adoptee.

**Redaction**

The careful editing of a document to remove confidential or offensive information. A revised or edited document. Methods of redaction include:

- Manual editing by using a black marker over confidential information and copying edited records as many times as necessary to ensure the confidential information cannot be seen through the marker.
- Electronic editing by using Microsoft Word to highlight confidential information using the color black and then printing the document.

**Subpoena**

A subpoena is an administrative request or a judicial branch document ordering a witness to appear to testify or to produce documents (subpoena duces tecum) for copying or inspection. A judicial branch order is necessary to enforce an administrative subpoena. Administrative tribunals cannot enforce administrative subpoenas or order the release of another agency's or DHS's confidential records.

**CLARIFICATIONS****Release of  
Provider  
Records or  
Information  
from Children's  
Services (CPS)  
Case Records**

**Note:** Mental health, medical, educational and alcohol or substance abuse information obtained from other sources, such as a client's self-report, child or witness statement that is not from a mental health, medical, educational or federally-assisted substance abuse treatment provider may be released.

**Release of mental health or medical provider information from children's services to law enforcement may occur:**

- When a CPS complaint contains allegations including mental health or medical concerns from a mental health or medical provider, a worker may provide a basic summary of the mental

health or medical information contained within the allegations to:

- Ensure the safety of the child, assigned worker or other person involved in the investigation.
- Refer a complaint to law enforcement, as required under the Child Protection Law (CPL).
- When CPS and law enforcement conduct a joint investigation, a worker may provide a basic summary of mental health or medical information and/or records obtained from a mental health or medical provider during the investigation.
- When proper written consent has been obtained. Use the DHS-1555-CS. Authorization to Release Confidential Information.

**Release of mental health or medical provider information from children's services to the prosecuting attorney or court may occur:**

- When CPS must forward a copy of the investigation, as required under the CPL, a worker may provide a basic summary of the mental health or medical information and/or records obtained from a mental health or medical provider.
- When CPS and the prosecuting attorney conduct a joint investigation, a worker may provide a basic summary of mental health or medical information and/or records obtained from a mental health or medical provider during the investigation.
- When a petition is filed with the Family Division of Circuit Court requesting child protection, court jurisdiction, removal, termination of parental rights or other necessary remedy, a worker may provide a basic summary of mental health or medical information and/or records obtained from a mental health or medical provider during the course of the children's services case (MCL 712A.11).

**Note:** To provide notice to the court that DHS possesses relevant mental health or medical information, the petition to the court may include the following language:

"DHS possesses important, but confidential, information and records relating to the child (or children's) best interests that it believes is necessary for the court to review before making a determination on this petition. Upon order of this court, DHS

will provide the information and records for the court's assessment."

- When proper written consent has been obtained. Use the DHS-1555-CS, Authorization to Release Confidential Information.

**Release of medical or mental health provider information or records to the Office of Children's Ombudsman (OCO) may occur:**

When the OCO specifically requests the medical and/or mental health provider information or records of a child who is the subject of a CPS investigation, under DHS jurisdiction, control or supervision due to child abuse and/or neglect. If the OCO specifically requests other minor children's or adult's medical or mental health provider information or records on an active children's services case, use the DHS-1555-CS, Authorization to Release Confidential Information to obtain proper written consent.

**Obtaining authority to release federally-assisted alcohol and/or substance abuse treatment information or records from children's services to court:**

To provide notice to the court that DHS possesses relevant substance abuse treatment information, the petition to the court may include the following language:

"DHS possesses important, but confidential, information and records relating to the child (or children's) best interests that it believes is necessary for the court to review before making a determination on this petition. Upon order **and** subpoena of this court, DHS will provide the information and records for the court's assessment."

**Obtaining authority to release federally-assisted alcohol and/or substance abuse treatment information or records from children's services to the OCO:**

When the OCO has specifically requested the federally-assisted alcohol and/or substance abuse treatment provider information or records of a child or adult in an open children's services case, use the DHS-1555-CS, Authorization to Release Confidential Information, to obtain proper written consent.

**Foster care service plans must be released to the child's primary care or attending physician for review to ensure that the service plan addresses any special medical needs if the child**

**is hospitalized, if the child is diagnosed with any of the following conditions:**

- Failure to thrive.
- Munchausen syndrome by proxy.
- Shaken baby syndrome or traumatic brain injury.
- Bone fracture that is the result of child abuse or neglect as determined by a doctor.
- Drug or alcohol exposure in utero.

**DOMESTIC  
VIOLENCE AND  
SEXUAL  
ASSAULT  
PROVIDER  
RECORDS**

The confidentiality of information or records obtained by a domestic violence or sexual assault service provider is governed by the Violence Against Women's Act (42 USC 13925(b)(2)). Limited information may be released from a domestic violence or sexual assault service provider to CPS to report child abuse or neglect as a mandated reporter under the Child Protection Law (MCL 722.623). The provider must report information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child under circumstances which indicate that the child's health or welfare is threatened.

Domestic violence and sexual assault service providers can only provide the information required for reporting child abuse or neglect, nothing further, unless the client signs a consent for release of information. Consent for release may not be given by the abuser of the minor, person with disabilities or the abuser of the other parent of the minor. The consent for release of confidential domestic violence or sexual assault service information must be developed by the domestic violence or sexual assault service provider.

*Reason:* Requested clarification from local offices, Adoption Program Office and Legal Affairs. Received clarifying language from the Attorney General's office. Terminology updated. Added definitions.



**MANUAL  
MAINTENANCE  
INSTRUCTIONS**

**Changed Items (content changes) ...**

**SRM 131**